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Counsel for Defendant Scallion-Martinez

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL SCALLION-MARTINEZ,

Defendant.

Case No.: CR 20–120 HSG

**SENTENCING MEMORANDUM ON
BEHALF OF DANIEL SCALLION-
MARTINEZ**

Court: Video-Teleconference
Hearing Date: January 11, 2021
Hearing Time: 9:00 a.m.

Mr. Scallion-Martinez will enter a guilty plea and proceed to sentencing via Zoom on January 11, 2021. He is aware that he may request an in-person sentencing, but agrees to waive that right so he can conclude this case and be transported to his place of confinement.

Both parties agree to a Total Offense Level 19 and a Criminal History Category IV, for an advisory range of 46-57 months. The parties jointly recommend downward variance to a sentence of 36 months imprisonment for all of the reasons set forth in the government's sentencing memorandum. The government's memorandum and the Presentence Report have both laid out the aggravating and mitigating factors thoroughly, and they need not be repeated here a third time. One additional factor worth mentioning is that Mr. Scallion-Martinez is waiving his right to appeal the

1 denial of the suppression motion he filed, saving the government and the courts time and effort and
2 providing finality to this case.

3 A 36-month prison sentence is a fair and just sentence in this case under 18 U.S.C. § 3553(a)
4 for a host of reasons, but the principle one is Mr. Scallion-Martinez's amenability to federal
5 supervision. Mr. Scallion-Martinez can do well. He is young (25) and has served only one prior
6 prison term. It appears that his entire criminal history, including the instant case, spans the period
7 from November 2015 to January 2020, approximately four years. PSR ¶¶ 27-29, 35-37. He has a
8 supportive Fiancée and it is likely that his mother, who is stable, will reestablish a relationship with
9 him once he pursues a crime-free lifestyle. There are several cognitive behavioral programs offered
10 in this District that would be helpful to him. He is not deeply institutionalized, mentally ill, or
11 suffering from serious chemical dependency, although he has a history of substance abuse. Mr.
12 Scallion-Martinez was out of prison for more than one year when he was arrested on this present
13 offense. While it is disappointing that he re-offended, it also shows that he has the ability to conform
14 his behavior to supervision and establish stability. He held employment during this time. The Court
15 will observe Mr. Scallion-Martinez at the upcoming proceeding. He presents as intelligent, calm, and
16 respectful. Mr. Scallion-Martinez can succeed on supervision.

1 A prison term beyond 36 months is not necessary at this juncture in Mr. Scallion-Martinez's
2 life, because several less restrictive measures remain available. The proposed sentence is a multi-
3 year federal sentence that will effectuate the purposes of sentencing. The defense respectfully
4 requests that Mr. Scallion-Martinez be sentenced to the jointly-proposed 36-month prison term, with
5 supervised release terms and conditions to be fixed by the Court.

6
7 Dated: January 6, 2021

Respectfully submitted,

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9 STEVEN G. KALAR
10 Federal Public Defender
Northern District of California

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JOHN PAUL REICHMUTH
13 Assistant Federal Public Defender
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